

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

HSIN CHI SU, ET AL \* 4:14-CV-02164  
\*  
V. \* 10:09 a.m. to 10:31 a.m.  
\*  
BANK SINOPAC, ET AL \* MAY 16, 2019

HEARING  
BEFORE THE HONORABLE LYNN N. HUGHES  
Volume 1 of 1 Volume

**APPEARANCES**

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Laura Wells, CRR, RDR

1 **PROCEEDINGS**

2 THE COURT: Thank you. Please be seated.

3 Mr. Laufer, have you had any conversations with -- is  
4 Cicack still the lead lawyer?

10:09:40

5 MR. LAUFER: Good morning, Your Honor. No, I  
6 have not had any contact with the lawyers for Mr. Su, at  
7 least in the last couple of years.

10:10:19

8 THE COURT: I'm trying to weed out all the ones  
9 that say terminated and the ones that don't. Shemano from  
10 Los Angeles?

11 MR. LAUFER: I don't think so. I think the  
12 lawyers who are currently on the case are the only lawyers  
13 who are currently on the case and the ones who filed the  
14 motion to withdraw I think either last week or --  
15 actually, I think it was this week.

10:10:28

16 THE COURT: Three days ago.

17 MR. LAUFER: Yeah. My understanding is that the  
18 other ones are off the case, and I believe they have been  
19 terminated.

10:10:39

20 THE COURT: And one of the current ones is  
21 Cicack?

22 MR. LAUFER: I believe that's correct; but again,  
23 I can't attest, obviously, to the state of Mr. Su's  
24 relationships with any of these lawyers.

10:10:58

25 THE COURT: I think we ought to rely on who wants

1 to withdraw. He is with Robins Kaplan. And it may just  
2 be an error, but I see no Robins Kaplan that has made an  
3 appearance to the point it got on the docket sheet.

10:12:31

4 MR. LAUFER: They may have just filed some  
5 submission at some point which got them on the docket. I  
6 am not exactly sure.

7 THE COURT: Well, obviously, Kaplan thinks he  
8 did.

10:12:43

9 MR. LAUFER: Yes. There is no question that at  
10 some point they were representing Mr. Su --

11 THE COURT: Yes.

12 MR. LAUFER: -- but I -- actually, I don't think  
13 I had ever any direct contact with that law firm.

10:12:51

14 THE COURT: But according to the docket sheet,  
15 there are several who once were representing him. A lot  
16 of them say "terminated," which is what you do when  
17 somebody does this and gets it granted.

18 MR. LAUFER: That's correct, Your Honor.

19 (Sotto voce discussion with the Court and law clerk.)

10:14:23

20 THE COURT: Get him on the phone, please.

21 THE LAW CLERK: Yes, sir.

22 THE COURT: Go right here. We will put him on  
23 speakerphone, and we will listen to it all.

24 MR. LAUFER: Very good.

10:14:59

25 THE COURT: Are you from out of town?

1 MR. LAUFER: I am, Your Honor. I'm from New  
2 York. I'm sorry about that.

3 THE COURT: You know, we have all these  
4 appearances and getting pro hac vice or you have to belong  
10:15:09 5 and we make you go to a seminar where you have to listen  
6 to me and other cruel and unusual things. And I've found  
7 that out-of-state lawyers are not --

8 THE LAW CLERK: It went to their voicemail for  
9 the firm.

10:15:38 10 THE COURT: It went to his voicemail?

11 THE LAW CLERK: Yes, sir, to the firm.

12 THE COURT: Well, call him back and tell me when  
13 the voicemail says leave a message, and I will.

14 THE LAW CLERK: Yes, sir.

10:16:04 15 (Connected to voice messaging for Robins Kaplan.)

16 THE COURT: She said stay on the line and wait  
17 for somebody.

18 THE LAW CLERK: Until the tone.

19 THE COURT: Oh, I couldn't hear that. Try that  
10:16:26 20 again.

21 THE LAW CLERK: One more time, yes, sir.

22 (Connected to voice messaging for Robins Kaplan.)

23 THE COURT: This is Lynn Hughes in Houston. I'm  
24 calling for Scott Gautier, who was supposed to be at a  
10:17:04 25 hearing in this court 18 minutes ago. I have the firm's

1 motion to withdraw, but it has not been granted or denied.

2 He was obliged to appear.

3 COMPUTER-GENERATED VOICE: To send this message,  
4 press pound or hang up. To play it -- your message has  
10:17:29 5 been sent. If you would like to try another extension,  
6 you may do so now. Good-bye.

7 THE COURT: Bye.

8 MR. LAUFER: I think he will have gotten the  
9 message from the first part of the message.

10:17:58 10 THE COURT: I called, I think it was, American  
11 Express; and I went through about 12 questions and answers  
12 from a nice machine. And then it said, If you want to  
13 speak to someone else or address something further, we  
14 will turn you over to our automated system. I hadn't been  
10:18:24 15 talking to Marilyn Monroe. Now come on.

16 I think people underestimate the value of human  
17 contact. Because if when they call their lawyer and they  
18 get Siri, that may be a signal to them of the kind of  
19 warm, close relationship they are going to have with  
10:18:49 20 counsel.

21 I called the CEO of Marathon Oil Company, which is a  
22 fairly high job; and they had one of these if you want to  
23 reach somebody, push the first four or three letters of  
24 their last name. And I did, and he answered the phone. I  
10:19:18 25 assume there are times when he lets somebody else do it

1 when he is not there.

2 MR. LAUFER: That's impressive.

3 THE COURT: That's a man who pays attention to  
4 detail.

10:19:27

5 MR. LAUFER: Sure.

6 THE COURT: Tell me what you think is left  
7 besides Su's failure of his claim.

8 MR. LAUFER: Sure. So as Your Honor is aware,  
9 the Court granted our motion to dismiss some months ago.

10:19:46

10 So Mr. Su's claims are now gone.

11 The only claims that our clients have pending are two  
12 summary judgment motions. One is pending in Civil  
13 Number 14-2165 at Docket Entry 94, and the other one is in  
14 Civil Number 14-2166 at Docket Entry 80. They are --

10:20:09

15 THE COURT: Is that what we have?

16 THE LAW CLERK: Yes, sir.

17 MR. LAUFER: They are materially the same. I  
18 think Your Honor is familiar with the facts of the case,  
19 but I can just give you a very, very brief background.

10:20:18

20 THE COURT: Way too familiar.

21 MR. LAUFER: I'm sure you are. So the short of  
22 it is that Mr. Su was at one point a high-flying shipping  
23 magnet. He, through various companies that he set up in  
24 Asia, took out loans from a syndicate of lenders to  
25 finance the construction of five shipping vessels, four of

10:20:33

1 which are at issue in these consolidated cases.

2 Those companies then defaulted on the loans. Mr. Su  
3 personally guaranteed all of those loans in valid  
4 enforceable guarantees. So once there was a default by  
10:20:53 5 the companies that he had set up, he was personally on the  
6 line.

7 The ships were then sold in bankruptcy proceedings  
8 before Judge Isgur in the Southern District Bankruptcy  
9 Court a few years ago. Those sales occurred, and the  
10:21:07 10 third parties now have the ships.

11 And so the delta between the value of the loans and  
12 the amount of money that was recouped in those sales is  
13 what our client, Wilmington Trust, is seeking by way of  
14 its counterclaims. We filed a motion for summary judgment  
10:21:23 15 or these two motions for summary judgment in April of  
16 2015, and I think they are fairly straightforward.

17 As I said, Mr. Su personally guaranteed the loans for  
18 the vessels. There is no dispute about that. There is no  
19 dispute that the guarantees are valid and binding and  
10:21:39 20 legally enforceable; and there is no dispute that the  
21 borrowers, the companies that he set up to own and operate  
22 these shipping vessels, have defaulted.

23 Demand was made on Mr. Su pursuant to the notice  
24 procedures that were set out in the facility agreement and  
10:21:56 25 the accompanying guarantees that he executed.

1 And in addition, as we pointed out in our papers,  
2 before the ships were sold there was a proceeding in  
3 Taiwan which resulted in the issuance by a Taiwanese court  
4 of what is called, in that jurisdiction, a payment order,  
10:22:11 5 which is essentially a judgment or a writ of execution.  
6 And then later, after there was no objection to the  
7 payment order, there was a final certificate issued,  
8 basically a statement by the Taiwanese court saying that  
9 these amounts are due and payable now.

10:22:27 10 We have submitted evidence in support of our motions.  
11 We have submitted an affidavit from Joshua James, who is a  
12 professional with Wilmington Trust, attesting to all of  
13 the facts, and then some, that I have just laid out.

14 We have also submitted an affidavit from a Taiwanese  
10:22:45 15 legal practitioner, James Wang, who has explained what the  
16 elements of a guarantee claim are under Taiwanese law.  
17 Not surprisingly, they are essentially the same as what  
18 you would expect. You have an obligation to pay, a demand  
19 is made, he didn't pay, pay the money.

10:22:56 20 THE COURT: I had two lawyers in here one  
21 morning, vigorously one trying to enforce the New York  
22 choice of law provision and the other wanting to do Texas  
23 law. So after what for me was a long time, say  
24 15 minutes, I interrupted them and said, Would either of  
10:23:19 25 you illustrate a material difference?



1 And they looked at me like I was crazy and said, There  
2 is none.

3 That's a debater's point.

4 MR. LAUFER: Right. Exactly. So that is the  
10:23:33 5 case here. There is no difference. And Mr. Wang in his  
6 affidavit has also explained the significance of the  
7 payment order and final certificate that I just described.

8 THE COURT: And that the creditors bought the  
9 ships and have a deed to them, he omits in his claim. You  
10:24:02 10 can't sue somebody for having bought your ships and then  
11 say they didn't buy them.

12 MR. LAUFER: That's right, Your Honor.

13 THE COURT: That is called an inconsistency.

14 MR. LAUFER: I would agree wholeheartedly with  
10:24:16 15 that sentiment. There has been no evidence submitted by  
16 the other side. I should also point out that the papers  
17 in opposition were submitted a few law firms ago. So I'm  
18 not sure that even the law firms that are currently  
19 representing Mr. Su would stand by the assertions that  
10:24:29 20 were made.

21 There is no evidence. There is no legal argument.  
22 There are just their recitals which, as Your Honor is  
23 obviously aware, just doesn't do the trick in opposition  
24 to summary judgment. So --

10:24:38 25 THE COURT: Not after all that's gone on here.

1 MR. LAUFER: Very true. So we would ask that  
2 summary judgment in favor of our client, Wilmington Trust,  
3 be entered.

10:24:51

4 With respect to the first motion, which is Civil  
5 Number 14-2165, Docket Entry 94, as of the date of the  
6 motion, April 20th, 2015, we would ask for a judgment in  
7 the amount of \$10 million -- \$10,336,413.82 plus pre- and  
8 post-judgment interest and fees.

10:25:15

9 And then with respect to the second motion, there are  
10 three components. This is Civil Number 14-2166, Docket  
11 Entry 80, there are three components because there are  
12 three ships at issue. One of the amounts is  
13 \$15,887,164.45.

14 THE COURT: Did you furnish a draft judgment?

10:25:37

15 MR. LAUFER: We have furnished draft orders  
16 that -- well, yes. They are attached to the papers. I  
17 think they just leave blank the interest payments. I  
18 can --

19 THE COURT: All right. When are you going home?

10:25:53

20 MR. LAUFER: I am leaving today, but if you want  
21 we can -- I can rip these out and fill them in and submit  
22 them to Your Honor's law clerk.

23 THE COURT: Well --

10:26:06

24 MR. LAUFER: Or print them out, whatever is  
25 better for you.

1 MR. DAWSON: We can file them with the Court,  
2 Your Honor.

3 THE COURT: It's better if we bring the interest  
4 and all through today.

10:26:13 5 MR. LAUFER: Yes. Okay. We can do that.

6 THE COURT: Please.

7 MR. LAUFER: Can we just --

8 THE COURT: At whatever the rate is today or is  
9 it contractual?

10:26:19 10 MR. LAUFER: I believe there is a contractual  
11 component, and there is also a statutory component. We'll  
12 clarify that and make sure that it's clear.

13 THE COURT: And you said fees. Is that you?

14 MR. LAUFER: That would be us, yes. There was  
10:26:32 15 actually a predecessor lawyer or law firm that was  
16 representing Wilmington Trust before we took over. So  
17 there may be some additional fees, but I don't think that  
18 we will -- we can put in a fee application separately if  
19 our client wishes to pursue that. I'm not sure that they  
10:26:48 20 will, but I will ask.

21 THE COURT: Well, the sooner the better.

22 MR. LAUFER: Sure. Fair enough.

23 THE COURT: Because I would like to put it all in  
24 one judgment.

10:26:55 25 MR. LAUFER: Very good. Then we'll do that.

1 MR. DAWSON: We're going to do that, but it may  
2 not be today. We can get it to you within a few days.

3 THE COURT: Yes. I don't mean to disappoint you,  
4 but I'm going to be around for a while.

10:27:08

5 MR. LAUFER: It sounds like you are inclined to  
6 grant the motion. So that makes us happy.

7 THE COURT: Yes. I mean, there is no reason not  
8 to.

9 MR. LAUFER: I agree.

10:27:19

10 THE COURT: It is -- open courts are a wonderful  
11 idea. They have a cost. Did you look at the -- did your  
12 cases include the patent claim?

13 MR. LAUFER: Yes. Enough said.

14 THE COURT: You know, the shame is, he is smart.

10:27:52

15 He is educated. It's one thing if you get somebody who is  
16 borderline crazy and doesn't understand things -- and we  
17 have a sufficiency of those -- but it's really important.

18 When I was consulting with our newly-won friends in  
19 Eastern Europe on constitutions and privatization, the  
20 idea that you could file a lawsuit without getting  
21 approval of any kind from a bureaucrat, it was so far  
22 outside their world, it was just bizarre. It was like  
23 letting everybody have a telephone.

10:28:22

24 You know, we take that for granted. They correctly  
25 realized that having the oppressed talk to each other is

10:28:50

1 not good for the regime. But in this case, he has had his  
2 fun.

3 MR. LAUFER: I agree; and if there is nothing  
4 further, Your Honor, I thank the Court for its time.

10:29:15 5 THE COURT: Where are we on the rest of these?

6 MR. LAUFER: I believe once judgment is entered  
7 on Wilmington Trust's counterclaims, at least from our  
8 perspective, I think that should close out the matter.

9 THE COURT: That will be good.

10:29:32 10 MR. LAUFER: Agreed.

11 THE COURT: Nice to meet you.

12 MR. LAUFER: Same to you, Your Honor. Thank you  
13 for having me in your courtroom.

14 THE COURT: You are always welcome. Everybody is  
10:29:45 15 welcome. So in my 34 years here, I think four times we  
16 have had vigorous court discussions about separate  
17 admission, and I annoy everybody because I think it's  
18 awful.

19 I go read that commission in the other room, and it  
10:30:13 20 says a United States District Judge. It says I serve in  
21 the Southern District, but I work for America. New York  
22 is part of America.

23 MR. LAUFER: No comment, Your Honor.

24 THE COURT: I lost my elder daughter to New York  
10:30:36 25 for, I guess, 10 or 12 years. She loved her job. She had

1 lots of friends, but she just got tired of all the  
2 inefficiency. So now she works for a French bank from  
3 Houston.

10:30:55

4 MR. LAUFER: I'm sure that makes you very  
5 pleased.

6 THE COURT: As long as she is happy.

7 The younger daughter for 24 years has been lost to  
8 Hollywood. But they say if you have three children, one  
9 of them will go into show business.

10:31:10

10 But I'm doing what I want to do. I want them to do  
11 what they are going to do.

12 MR. LAUFER: That's great.

13 THE COURT: Mr. Dawson, did I do okay?

10:31:23

14 MR. DAWSON: Yes, Your Honor. Not that I would  
15 ever grade your papers, of course, but yes.

16 THE COURT: Of course not, except after hours  
17 with people I don't know.

18 MR. DAWSON: I'm glad I could make a meaningful  
19 contribution today.

10:31:33

20 THE COURT: You did. Not talking.

21 MR. LAUFER: He did get me to the courthouse,  
22 Your Honor. That was the meaningful contribution.

23 THE COURT: A native guide is handy to have.  
24 Thank you.

10:31:51

25 (Proceedings concluded at 10:31 a.m.)

1 Date: May 21, 2019

2 ***COURT REPORTER'S CERTIFICATE***

3 I, Laura Wells, certify that the foregoing is a  
4 correct transcript from the record of proceedings in the  
5 above-entitled matter.

6  
7 /s/ Laura Wells

8 Laura Wells, CRR, RMR

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Laura Wells, CRR, RDR

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